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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 10/715,792 | 11/17/2003 | Jay Novak | LA-7252-106.US/10311473 | 4550 |
| 167 | 7590 | 01/25/2006 | EXAMINER | |
| FULBRIGHT AND JAWORSKI LLP 555 S. FLOWER STREET, 41ST FLOOR LOS ANGELES, CA 90071 | | | AYRES, TIMOTHY MICHAEL | |
| | | | ART UNIT | PAPER NUMBER |
| | | | 3637 | |

DATE MAILED: 01/25/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/715,792

Applicant(s)

NOVAK, JAY

Examiner

Timothy M. Ayres

Art Unit

3637

— The MAILING DATE of this communication appears on the cover sheet with the correspondence address —

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 November 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-27 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-27 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 17 November 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

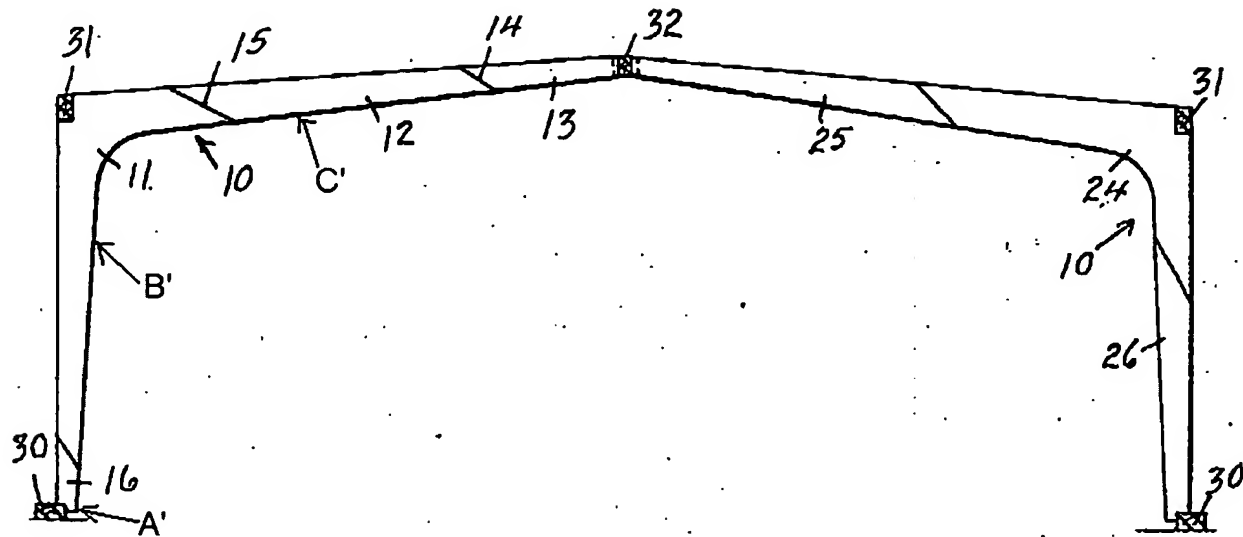
A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-4, 7, 8, 11, and 12 are rejected under 35 U.S.C. 102(b) as being anticipated by US Patent 2,413,145 to Kump. Kump '145 discloses a support member (10) made of a plurality of wood plies (1-8) as a standard type of plywood (Col. 1 line 18-23). A unitary body portion (B', 16,19,21,26) has a tenon portion (C', 11,17,20,24) atop and extending outward at least as great as the width of the body portion. Each ply is joined to at least one other ply at one of a plurality of interfaces and each ply has a grain, which is oriented in a different direction relative to grains of adjacent plies. The interfaces are generally parallel along a longitudinal direction of the support member (10). The body portion is the only structure supporting the tenon portion (C').

3. Regarding claim 7, 8, 11, and 12 the first tenon portion (A') is next to the floor plate (30), which the body portion (B') rests on and the second tenon portion (C') extends outwardly from the body portion (B').

4. Regarding claim 11 and 12, the first tenon portion and the body portion have the same width as best seen from the top view of figure 1.

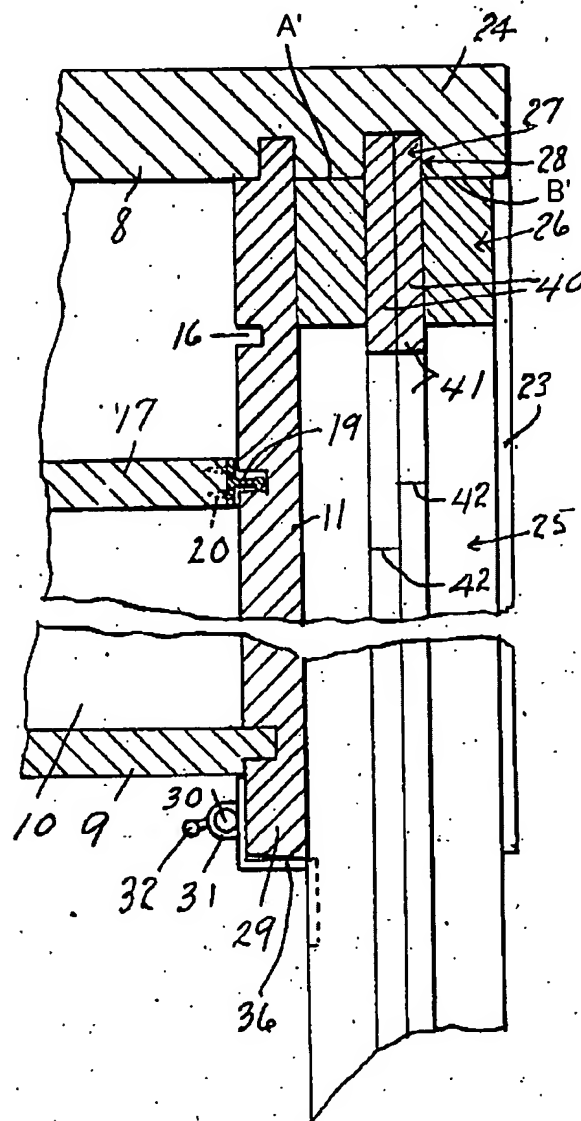


Kump '145 Figure 4

5. Claims 1-3, 5-7, 9-11, 13-16, 18, 19, and 21 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by U.S. Patent 2,404,182 to Kump. Kump '182 discloses a support member (25, 26, 27, A', B') made of plywood (col. 4, line 12-29). It is inherent that plywood is made up of a plurality of wood plies, wherein each ply is joined to at least one other ply at one of a plurality of interfaces and each ply has a grain, which is oriented in a different direction relative to grains of adjacent plies. Kump '182 refers to a previous application and later U.S. Patent 2,413,145 to himself, which discloses the type of standard plywood he uses (Kump '145, Col. 1, line 18-23). For most plywood the different direction is generally orthogonal which provides the most strength. The support member (25, 26, 27, A', B') has a tenon portion (27) atop a body portion (25, 26), the tenon portion (27) extending outwardly from the unitary body portion (25, 26) as best seen in figure 2 below. The body portion (25, 26) is the only structure supporting the tenon portion.

Art Unit: 3637

6. Regarding claims 2, 7, 11, and 15, the interfaces are generally parallel along a longitudinal direction of the support member (25, 26, 27, A', B') as best seen in figures 1 and 2. The tenon portion (27) is now the first tenon portion (27). An outwardly extending second tenon portion (A', B') as seen below in figure 2. The first tenon portion (27) and the body portion (25, 26) have approximately the same widths.



Kump '182 Figure 2

7. Regarding claims 15 and 16, the support member (25, 26,27, A',B') is part of a table (8). A top (24) having at least one mortise (28) on one side thereof into which at least the first tenon portion (27) of each leg (25, 26,27, A', B'). Wherein each mortise (28) is formed to compliment at least the first tenon portion (27) and second portion (A', B') of each leg (25, 26,27, A', B'), respectively.

8. Regarding claims 6, 10, 14, and 18, a foot protector (45) disposed about a foot portion of the support member (25, 26,27, A', B'), the foot portion being on an opposite side of the body portion (25, 26) from the tenon portion (27) as best seen in figure 1.

9. Regarding claims 5, 9, 13, and 21, the second tenon portion (A', B') extends outwardly from at least two sides of the body portion (26).

Claim Rejections - 35 USC § 103

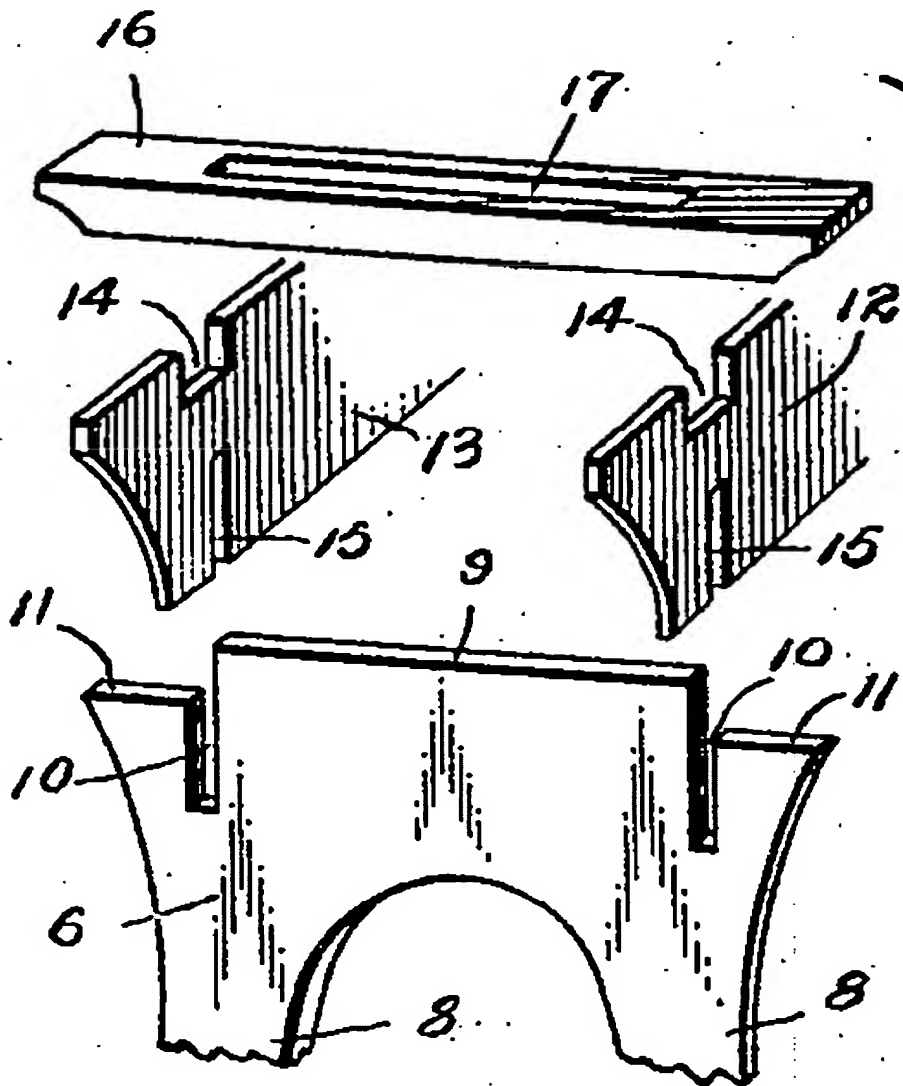
10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

11. Claims 1-3, 5, 7, 9, 11, 13, 15-17, 19, and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent 1,645,336 to McGlothern in view of US Patent 3,300,245 to Rumble. McGlothern '336 discloses a table with a top (5) that is supported by support members/legs (6,7). Each support member has a unitary body portion (8) with a first tenon portion (9) on top and two outwardly extending second

Art Unit: 3637

tenon portions (11). The body portion being the only structure supporting the tenon portions. The first tenon portion fits in a mortise (17) on a locking member (16), which supports the table. The tenon portions and the body portions are similar proportioned in that they are made from the same piece of lumber with the same width.



McGlothern ' 336 Figure 4

Art Unit: 3637

12. McGlothern does not expressly disclose the support member made from a plurality of plies (plywood) and the first tenon portion extending into a mortise on and through the tabletop. Rumble '245 discloses a picnic table made from plywood. The support members have a tenon (14) that corresponds to mortise (9) that extends through table (1). The tenon (14) has plies that are orthogonal to the plies of the table (1). At the time of the invention it would have been obvious for a person of ordinary skill to take the table of McGlothern and make the mortise extend through the table like Rumble's table so that the support member is more secure and be made of plywood since it is well known to substitute plywood for solid stock lumber.

13. Claims 4, 8, 12, and 20, are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 2404,182 to Kump in view of U.S. Patent 740,846 to Giddings. Kump '182 discloses every element as described above except the second tenon portion of each leg extends outwardly by a distance that is at least as great as a width of the body portion. Giddings '846 discloses a table (11) with legs (3) with a first tenon portion (6) atop a body portion (C'). Second tenon portion (A', B') extends outwardly by a distance that the same as the width of the body portion (C') because of the taper in the leg (3).

14. At the time of the invention it would have been obvious for a person of ordinary skill in the art to take the table and support assembly of Kump and modify the legs with the taper of Giddings to make it more aesthetically pleasing.

15. Claims 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 2404,182 to Kump in view of U.S. Patent 3,300,245 to Rumble. Kump '182 discloses every element as described above except that each mortise extends through the top. Rumble '245 discloses a picnic table made from plywood. The support members have a tenon (14) that corresponds to mortise (9) that extends through table (1). At the time of the invention it would have been obvious for a person of ordinary skill

Art Unit: 3637

to take the table of Kump and make the mortise extend through the table like Rumble's table so that the support member is more secure.

16. Claim 22, 23, and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 2404,182 to Kump in view of US Patent 2,425,263 to Niver. Kump '182 discloses every element as claimed and discussed above except the foot protector made from a plurality of wood piles. Niver '263 discloses a table (20) that is supported by a body portion (25) that has a foot protector (13) that is made of a plurality of plies (15,16). At the time of the invention it would have been obvious for a person of ordinary skill in the art to modify Kump by using the foot protectors as taught by Niver to since they are functionally equivalent to the foot protectors of Kump.

17. Claims 24 and 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 2404,182 to Kump in view of US Patent 2,425,263 to Niver as applied to claim 22 above, and further in view of U.S. Patent 3,300,245 to Rumble. Kump in view of Niver discloses every element as claimed and discussed above except that each mortise extends through the top and that the foot protector has plies that are orthogonal to the wood plies of each leg. Rumble '245 discloses a picnic table made from plywood. The support members have a tenon (14) that corresponds to mortise (9) that extends through table (1). The tenon (14) has plies that are orthogonal to the plies of the table (1). At the time of the invention it would have been obvious for a person of

Art Unit: 3637

ordinary skill to take the table of Kump in view of Niver and make the mortise extend through the table like Rumble's table so that the support member is more secure.

18. Regarding claim 27, it would have been obvious to one of ordinary skill in the art to use the teaching of Rumble's mortise and tenon to make the foot protector plies orthogonal to the plies of the body portion of Kump in view of Niver since having plies orthogonal is functionally equivalent to not having them orthogonal as is taught by Nivers.

19. Claim 25 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 2404,182 to Kump in view of US Patent 2,425,263 to Niver as applied to claim 22 above, and further in view of U.S. Patent 740,846 to Giddings. Kump '182 discloses every element as claimed and discussed above except the second tenon portion of each leg extends outwardly by a distance that is at least as great as a width of the body portion. Giddings '846 discloses a table (11) with legs (3) with a first tenon portion (6) atop a body portion (C'). Second tenon portion (A', B') extends outwardly by a distance that the same as the width of the body portion (C') because of the taper in the leg (3). At the time of the invention it would have been obvious for a person of ordinary skill in the art to take the table and support assembly of Kump in view of Niver and modify the legs with the taper of Giddings to make it more aesthetically pleasing.

Response to Arguments

20. Applicant's arguments filed 11/28/05 have been fully considered but they are not persuasive. The legs and the cross member of Kump are considered to be the body portion and are unitary. The examiner considers unitary to mean that the body portion is having the nature of a unit and a unit is one considered to constitute part of a whole. The legs and cross member are considered to be part of a whole unit (the body portion). Since both legs and cross members are considered part of the body portion then they are the only structure supporting the tenon portion. It is pointed out that language better defining that the tenon portions are made from the same plies as the body portion, that when the first tenon portion fits into the mortise then the second tenon portions fits into a space that gives the bottom of the tenon a flush appearance to the bottom of the table when viewed in profile, that the foot portion of the body portion is a tenon that fits into a mortise of the foot protector, and the foot protector has edges flush with the outer edge of the body portion would receive favorable consideration.

Conclusion

21. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. US Patent 6,355,918 to Eckmyre discloses a table with a support member made from a body portion with a second tenon portion extending a width greeter than that of the body portion and a first tenon portion extending from the table to a mortise in the body portion. US Patent 1,610,730 to Baler discloses a support member with a second tenon portion that extends a greater width than the width of the body

Art Unit: 3637

portion. Document from jperkins.us discloses a table with second tenon portions that extend a width greater than that of the body portion.

22. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Timothy M. Ayres whose telephone number is (571) 272-8299. The examiner can normally be reached on MON-THU 8:00 - 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on (571) 272-6867. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3637

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

TMA
1/11/06



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